

2011

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Examination Representation 101



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IRS Operating Divisions

Wage and Investment Division (W & I)

Tax Exempt / Governmental Entities (TEGE)

Small Business / Self-Employed (SB/SE)

**Large Business and International Division
(LB&I) - formerly known as the “Large &
Mid-Size Business Division.”**



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IRS Operating Divisions

Appeals

Chief Counsel

National Taxpayer Advocate

Office of Professional Responsibility

Criminal Investigation

Whistleblower Office



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Pre-Audit Considerations

Postpone the audit if not prepared!

Review and reconcile the taxpayer's books of account, income statements, balance sheets, general ledgers, summary records of business operations (cash receipts and disbursements journals, sales journals, etc.)

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Pre-Audit Considerations

Consider contacting the IRS examiner in advance of the scheduled examination to possibly streamline or limit the initial scope of the the examination

Review there large, unusual or questionable items in the return

Review potentially applicable IRS Audit Technique Guidelines



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TAXPAYER REPRESENTATION

Pre-Audit Considerations

Review returns of all related entities and taxpayers

Review returns for other tax years
– **Pattern of errors? (3-year review)**

Review related State and local returns

Review prior examination reports, if any



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Pre-Audit Considerations

Evaluate internal controls that might support the accuracy of return information

Sensitive Issues?

- **Schedule C taxpayer**
- **Cash intensive business**

Identify all potentially applicable privileges

Meet and discuss your review of all relevant information with the taxpayer before the audit begins



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TAXPAYER REPRESENTATION

The Audit

OBJECTIVE: Early Resolution!

Humanize the audit process –

- Cooperate with the examiner in a timely manner – an audit is not intended as an adversarial process**

Avoid misleading information of any kind

Document control – make duplicate copies of documents provided



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The Audit - Interviews

Taxpayer & Preparer

- Written questions in advance?
- Timing? (Near end of the audit)
- Place? (Where is TP comfortable?)

Interview techniques -

- Be comfortable and personable
- Ask for clarity if you don't understand questions
- Maintain appearance of cooperation throughout



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The Audit

Anticipate tours of business sites

- Knowledgeable individuals present
- Explain business practices
- Should not disrupt business operations



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The Audit

Information Document Request (IDR)

- Timely, narrative responses
- Summons – have there been timely, reasonable responses to the IDRs?

Requests to extend the Statute of Limitations?

- How much time is reasonable?
- Request restricted extension?



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The Audit – Indirect methods of Determining Income

Unexplained bank deposit analysis

**Expenditures exceed known
financial resources**

– Cash hoard?

Unexplained increases in net worth

Mark-Up analysis



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The Audit - Badges of Fraud

**Conduct during the examination –
evasive?**

Multiple sets of books & records?

False or duplicate invoices?

Concealment

Check cashing

“Pattern” of errors

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The Audit

Freedom of Information Act Request (FOIA)

- Form – Search “FOIA” at irs.gov
- When to file?
- Where to file? See list of IRS Disclosure Offices at irs.gov

Penalty Considerations

- Reasonable cause – reliance? See IRM 20.1.1 “Introduction and Penalty Relief”
- Disclosure statement – Form 8275
Don’t get cute!

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Post- Audit, No Agreement with the IRS Examination Findings

**Request a conference with the
examiner's manager or supervisor**

If IRS issues a “30-Day Letter”:

- Can request an extension of
the 30 day period to respond**
- File a Protest within the
referenced 30 day period**



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Protest of the Audit Findings

Protest must include:

- Taxpayer's name and address
- A statement that the taxpayer intends to appeal the IRS findings to the Appeals Office,
- Attach a copy of the letter showing the proposed changes and unagreed findings (or the date and symbols from the letter),
- The tax periods or years involved,
- A list of the unagreed changes why there is no agreement together with a statement of supporting facts and law



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Post- Audit, No Agreement with the IRS Examination Findings

- If IRS issues a Notice of Deficiency (90-Day Letter”)
 - NO ABILITY TO EXTEND THE 90 DAY TIME PERIOD
 - A Tax Court Petition must be timely filed with the United States Tax Court within 90 days as stated in the 90 Day Letter, or,
 - If the taxpayer desires to pay the deficiency and proceed with an administrative claim for refund, the deficiency should be paid (followed by the timely filing with the IRS of a claim for refund, etc.)

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Post- Audit, No Agreement with the IRS Examination Findings

- If a timely Protest is filed with the IRS or a timely Petition is filed with the United States Tax Court, the case will be referred to the Office of IRS Appeals for consideration
- See IRS Publication 5 for further information

